

Remarks

Before this Amendment, claims 1, 2, 4-18, 20-23, 27-36, and 46-80 were pending. This Amendment cancels claims 2, 4, 13-16, 27-31, 33-36, 46-73, and 75-80. If this Amendment is entered, claims 1, 5-12, 17, 18, 20-23, 32, and 74 will be pending.

Claim 1 has been amended to recite inhibiting apoptosis. Support for this amendment is found in the specification at page 9, lines 6-13 and page 17, lines 2-6. The other amendments to claim 1 merely incorporate limitations found in dependent claims. Thus, these limitations also are supported.

The amendments to claims 5, 6, 7, 32, and 74 relate either to matters of form, changes in dependency, or the incorporation of a limitation from another claim.

The rejections under 35 U.S.C. §112

The Applicants do not agree with the rejections under 35 U.S.C. §112, but have nevertheless amended claim 1 in an effort to simplify the issues for appeal and thus advance the prosecution of certain subject matter within prior claim 1. Claim 1 has been amended to take into account comments made by the Examiner in the Office Action dated December 16, 2003 in connection with the rejections under 35 U.S.C. §112. It is hoped that this Amendment will be entered, the rejections under 35 U.S.C. §112 will be withdrawn in view of the amendments made to claim 1, and the appeal will proceed limited to the issues raised by the obviousness rejection.

Claim 1 has been amended to recite “treating” in view of the Examiner’s comments at pages 8-9, paragraph 8, of the Office Action.

Claim 1 has been amended to recite “sphingosine-1-phosphate” in view of the Examiner’s comments in the last sentence of the first paragraph of page 4 of the Office Action.

Claim 1 has been amended to recite “inhibit apoptosis” in view of the Examiner’s comments at pages 8, paragraphs 6-7, of the Office Action.

Claim 1 has been amended to recite "wherein said artificial insult is a chemotherapeutic drug or radiation" since the Applicants have submitted evidence that chemotherapeutic drugs act via causing apoptosis and the specification contains a working example of radiation treatment.

In view of these amendments to claim 1, it is respectfully requested that the rejections under 35 U.S.C. §112 be withdrawn and the application proceed to appeal with the set of claims listed in this Amendment.

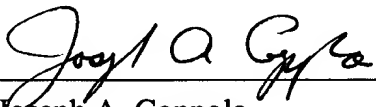
The time for responding to the Office Action was set for March 16, 2004. Therefore it is believed that this Amendment is timely and no Petition for the Extension of Time is required. If this is in error, please treat this Amendment as containing a Petition for the Extension of Time under 37 C.F.R. § 1.136(a) for a period sufficient to permit the filing of this Amendment. Charge any corresponding fees to Kenyon & Kenyon's Deposit Account No. 11-0600.

The Applicants hereby also make a Conditional Petition for any relief available to correct any defect seen in connection with this filing, or any defect seen to be remaining in this application after this filing. The Commissioner is authorized to charge Kenyon & Kenyon's Deposit Account No. 11-0600 for the Petition fee and any other fees required to effect this Conditional Petition.

Respectfully submitted,

Dated: February 24, 2004

By:


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